

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

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Augusta, Maine
2015

months as long as the B.Y.O.B. functions are held at the same location.

See title page for effective date.

CHAPTER 107

H.P. 477 - L.D. 701

An Act To Modify Unemployment Insurance Successor Law

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §1221, sub-§5, as amended by PL 2007, c. 23, §1, is repealed and the following enacted in its place:

5. Successor transfers of experience and assignment of rates; no common ownership. The following applies to the assignment of rates and transfers of experience in successor purchases when there is substantially no common ownership, management or control between purchaser and predecessor.

A. Effective as of the date on which the business was acquired:

(1) The executors, administrators, successors or assigns of a new employer who acquires the business of the predecessor employer in toto may acquire the experience rate of that employer with payrolls, contributions and benefits or may be assigned the state average contribution rate, whichever rate is lower; and

(2) The executors, administrators, successors or assigns of an existing employer with an established experience rate who acquires the business of the predecessor employer in toto may acquire the experience rate of that predecessor employer with payrolls, contributions and benefits, which is then blended with the successor's established experience rate to form a new rate, or retain the established experience rate of the successor, whichever is lower.

Sec. 2. 26 MRSA §1221, sub-§5-A, as corrected by RR 2005, c. 1, §12, is amended to read:

5-A. Transfers of experience and assignment of rates involving common ownership. ~~Notwithstanding subsection 5, the~~ The following applies to the assignment of rates and transfers of experience when there is substantial common ownership, management or control between the successor and predecessor employers.

A. If:

(1) An employer transfers its trade or business, or a portion of its trade or business, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the 2 employers, then the unemployment experience attributable to the transferred trade or business is transferred to the employer to whom the business is transferred. The rates of both employers must be recalculated and made effective immediately upon the date of the transfer of the trade or business. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and such trade or business is performed by the employer to whom the workforce is transferred; and

(2) Following a transfer of experience under subparagraph (1), the commissioner determines that the purpose of the transfer of trade or business was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved must be combined into a single account and a single rate assigned to such account.

B. Whenever a person who is not an employer under this chapter acquires the trade or business of an employer, the unemployment experience of the acquired trade or business is not transferred to that person if the commissioner finds that the person acquired the trade or business solely or primarily for the purpose of obtaining a lower rate of contributions. In such circumstances, the person acquiring the trade or business is assigned the applicable new employer rate under subsection 4-A. In determining whether the trade or business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the commissioner shall consider objective factors that may include the cost of acquiring the trade or business, whether the person continued the business enterprise of the acquired trade or business, how long the business enterprise was continued or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

C. If a person knowingly violates or attempts to violate paragraph A or B or any other provision of this chapter related to determining the assignment of a contribution rate or if a person knowingly advises another person in a way that results in a violation of such a provision, the person commits a Class D crime. In addition, the person is subject to the following:

(1) If the person is an employer, then that employer is assigned the highest rate assignable under this chapter for the rate year during which the violation or attempted violation occurred and for the 3 rate years immediately following that rate year, except that, if the person's business is already at the highest rate for any year or if the amount of increase in the person's rate would be less than 2% for such year, then a penalty rate of contributions of 2% of taxable wages is imposed for that year; and

(2) If the person is not an employer, that person is subject to a fine of not more than \$5,000, which must be deposited in the Special Administrative Expense Fund established under section 1164.

D. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(2) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal Revenue Code of 1986.

(3) "Trade or business" includes the employer's workforce.

(4) "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure.

E. The commissioner shall adopt rules to identify the transfer or acquisition of a business for purposes of this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

F. This subsection must be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

See title page for effective date.

CHAPTER 108

S.P. 270 - L.D. 740

An Act To Sustain Maine's Primary Care Professional Workforce

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §5219-LL, sub-§1, ¶A, as reallocated by RR 2013, c. 2, §46, is amended to read:

A. "Eligible primary care professional" means a person licensed under Title 32, chapter 31, subchapter 3 or subchapter 4; Title 32, chapter 36, subchapter 4; or Title 32, chapter 48, subchapter 2 and who, on or after January 1, 2013:

(1) ~~First begins practicing~~ Practices primary care medicine in the State ~~by joining as part of an existing health care practice in an underserved area or establishing~~ establishes a new health care practice or ~~purchasing~~ purchases an existing health care practice in an underserved area;

(2) Agrees to practice full time for at least 5 years following certification under subsection 3 in an underserved area;

(3) Is certified under subsection 3 to be eligible by the Department of Health and Human Services; and

(4) Has an unpaid student loan owed to an institution for course work directly related to that person's training in primary care medicine.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 2015.

See title page for effective date.

CHAPTER 109

H.P. 527 - L.D. 774

An Act To Assist Victims of Crime To Obtain Restitution

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §1330-C is enacted to read:

§1330-C. Civil remedy upon default

Upon the request of the attorney for the State or a person entitled to restitution under an order of restitution, the clerk shall enter the order of restitution in the same manner as a judgment in a civil action. When entered under this section, the order of restitution is deemed to be a money judgment. Upon default, the order to make restitution is enforceable in accordance with Title 14, chapter 502 by any person entitled to restitution under the order.

See title page for effective date.